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June 30, 2023

VIA CM/ECF

Patricia S. Connor, Clerk
United States Court of Appeals for the Fourth Circuit
1100 E. Main St., Suite 501
Richmond, VA 23219

Re: *Appalachian Voices, et al. v. U.S. Department of the Interior, et al.*, No. 23-1384,
Response to Notice of Supplemental Authority Pursuant to Rule 28(j)

Dear Ms. Connor:

On June 29, 2023, Petitioners filed a “Response to Rule 28(j) Letters” alerting the Court to a June 28, 2023, Federal Energy Regulatory Commission (FERC) Order granting Mountain Valley’s request to proceed with construction activities. ECF No. 47. Although Petitioners style their filing a “response,” it advises the Court of new authorities and thus warrants its own response. *See* Fed. R. App. P. 28(j) (providing for a response to a letter “setting forth” new authorities).

On June 12, 2023, Mountain Valley advised the Court that it expected the U.S. Army Corps of Engineers (Corps) to issue an individual permit for the Mountain Valley project on or before June 24, 2023, and that Mountain Valley expected to resume construction shortly thereafter. ECF No. 40. As expected, the Corps issued its permit on June 23, and, five days later, FERC ordered Mountain Valley to resume construction. Mountain Valley is in the process of mobilizing resources to resume construction in early July.

For all the reasons Mountain Valley and the Federal Respondents have noted already, the Court should deny Petitioners’ Motion to Stay. *See* ECF Nos. 23, 24. But independent of those reasons, Section 324 of the Fiscal Responsibility Act removes this Court’s jurisdiction to entertain this Petition and shows that Petitioners cannot prevail on the merits. Petitioners say that Section 324 is unconstitutional. But, as Mountain Valley will explain in its reply brief to be filed on July 10, Petitioners are wrong and this Court lacks jurisdiction to hear that question.



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Sincerely,

/s/ George P. Sibley, III

George P. Sibley, III
Counsel for Mountain Valley Pipeline, LLC

cc: All Counsel of Record (via CM/ECF)